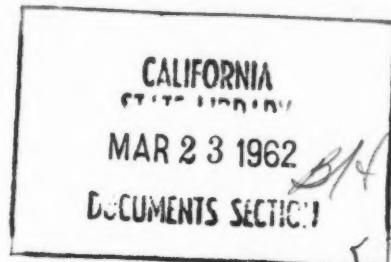


TRANSCRIPT OF PROCEEDINGS

HEARING OF THE SUBCOMMITTEE ON
FIRE PROTECTION, OF THE

ASSEMBLY INTERIM COMMITTEE ON PUBLIC HEALTH
W. BYRON RUMFORD, CHAIRMAN

December 1, 1961
Room 115, State Building
Los Angeles, California



FIRE SAFETY IN CALIFORNIA

Don Mulford, Subcommittee Chairman
Members, Glenn E. Coolidge
Walter I. Dahl
W. S. Grant
Chet Wolfrum

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SUBCOMMITTEE ON FIRE PROTECTION

December 1, 1961
Los Angeles, California

CHAIRMAN MULFORD: The hour of ten having arrived, this is a meeting of the Assembly Interim Committee on Public Health, Subcommittee on Fire Protection. Those present today - on my immediate left is Assemblyman Chet Wolfrum from Los Angeles, on the far right, Assemblyman Walter Dahl from Oakland, our Legislative Assistant is Gene Poschman, and Mrs. Vivian Nance, the Secretary to the Committee.

The first item of business will be AB 132. This was introduced by Mr. Lowery and prohibits filling a glass container with gasoline or kerosene, storing such liquids in glass containers and filling other types of containers with such liquids unless labeled as flammable.

From the Standard Oil Company, T. G. Woods, Marketing Department. Do you want to come forward, Mr. Woods, please? Will you identify yourself, your name and your organization please for the record?

MR. WOODS: My name is Ted G. Woods with the Standard Oil Company, Western Operations Division, Marketing Department. We of the Standard Oil Company Marketing Department fully support the original intent of the legislation as written, Bill 132, insofar as it prohibits the sale or delivery of gasoline in glass containers, however, subsequent amendments and revisions of this bill have presented some features that are objectionable and, in our opinion, are in conflict with existing

federal and state laws. For instance, Section 13117 pertaining to the use of and the description for metal containers would prevent the use of satisfactory containers made of material other than metal or glass. Developments in the industry today in packaging materials have been very rapid and suitable materials are now being used in containers other than metal and glass which we feel ultimately would be satisfactory for gasolines.

In Section 13117 the requirement that a container be fitted with a tight fitting replaceable top, cap, or other device so that the container will be air tight when closed, would prohibit industry from using almost all of our modern types of containers for delivery as none of these are air tight. This could include such things as tank vehicles, tank cars, tanks and even stationary tanks. We do not feel that this was the intent of the bill. It is felt that the definition of the container should be expanded so as to eliminate these particular things that I have mentioned and used by industry for that reason.

In regards to the definition of a flammable liquid as utilized in Section 13117 of the present proposed bill and 13118, they have defined flammable liquids differently. One has established 200 degrees fahrenheit and the other 120 degrees fahrenheit as the flash point. We feel that it is both confusing to industry and misleading to the public to have definitions of flammable materials which are in conflict with our present labeling codes - particularly those which have been established by both the Federal Government and by states laws. By this, I refer to the Federal Hazardous Substance Labeling Act and the recently enacted California Hazardous Substances Labeling Act -

AB 266 which was added to Division 21, Chapter 13 of the Health and Safety Code of the State of California. In this particular bill it defines flammable liquid as a substance having a flash point at or below 20 degrees fahrenheit would be labeled as extremely flammable, and substances having a flash point above 20 degrees fahrenheit up to and including 80 degrees fahrenheit would be labeled as flammable. We feel that these three objections, or should we say revisions, should be made in this proposed bill if it is again presented to the Legislature. Thank you, Chairman Mulford.

CHAIRMAN MULFORD: Mr. Woods a question. If I understood you correctly, the bill in its original form as introduced by Mr. Lowery on January 5th seemed to indicate in rather plain language the intent of the author. Is it my understanding that generally speaking you are in agreement with the intent insofar as the glass containers are concerned?

MR. WOODS Yes. We are in agreement with that intent insofar as glass containers are concerned for the sale or delivery of gasoline.

CHAIRMAN MULFORD: Secondly, Standard Oil has some very highly respected and well qualified attorneys. Do you suppose you could prevail upon your legal talent to reduce to a general outline of the recommendations that Standard Oil has made to us today in the form of a bill that might set forth the ideas that you have pertaining to this measure?

MR. WOODS I will be glad to discuss this with them upon my return. *

CHAIRMAN MULFORD: It appears to me that you have made

some very good points this morning and just as a further guide to the committee here if your legal people could give us the benefit of their counsel it might be helpful to arrive at legislation which might solve the problems if it is the will of the Legislature and I know we would appreciate hearing from them.

MR. WOODS: We would be very happy to do that. I'm not entirely certain of this as I do not have in front of me the files, but I believe these points which I brought up this morning have been raised when the bill was going through the past meeting of the Legislature. They may actually be in your records at this time.

CHAIRMAN MULFORD: This bill, of course, is history too. We're merely using this as a review to determine this subcommittee will recommend to the whole Committee on Public Health and then it will be taken under advisement by the Chairman, Assemblyman Rumford, who is Chairman of the overall committee and then if, in the opinion of the committee, it is decided to proceed with this subject, then new legislation will be introduced. Are there any questions, Mr. Dahl?

ASSEMBLYMAN DAHL: None, thank you.

CHAIRMAN MULFORD: Mr. Wolfrum?

ASSEMBLYMAN WOLFRUM: No.

CHAIRMAN MULFORD: Thank you very much, Mr. Woods.

MR. WOODS: I'll be glad to take that up and I'll contact you about it.

CHAIRMAN MULFORD: Thank you, sir. Inspector Owen Held, Los Angeles Fire Department. Will you identify yourself please for the record.

INSPECTOR HELD: My name is Owen Held, Senior Inspector, Los Angeles Fire Department. I have a rather brief prepared statement of which I believe you now have a copy which sets forth the feeling of this department as well as the California Firemen's Association of which I am also a representative.

On behalf of the Los Angeles Fire Department, the following statement has been prepared for the public hearing on "Fire Safety in California" scheduled for December 1, 1961, in the City of Los Angeles, by the Subcommittee on Fire Protection.

One of the most difficult problems of fire officials has been the education of the public on the hazards in the handling and use of flammable liquids.

This situation has been uppermost in the minds and efforts of fire enforcement officers not only in California but over the entire Nation. The National Fire Protection Association in 1946 established a committee on Flammable Liquids to establish a uniform method of providing warning labels for such materials. This committee worked with various groups interested in this matter including the Manufacturing Chemists Association.

Final adoption of the recommended Standards was secured at the 1951 National Fire Protection Association Annual Meeting. Since that time, however, only a few manufacturers have adopted the use of these labels. Outside of local ordinances, the only other agency requiring labels is the Interstate Commerce Commission and that applies only to these items which move interstate. Therefore, materials packaged for local use do not necessarily need to conform.

It is our considered opinion that all flammable liquids,

flammable liquid compounds, or flammable liquid mixtures, offered for sale at retail in containers should be conspicuously marked or labeled.

We believe that AB 132 will improve the conditions that presently exist as to labeling, and make for a more and better informed public whom we are pledged to protect.

This statement is brief and general and the purpose of it is to stimulate questions. It doesn't cover the entire purport of the bill and as this discussion went on in Sacramento during the session when the bill was presented, there was considerable comment regarding types of containers whether they be glass, metal, or plastic or several other things, and it was my hope and my concern here that we could bring these things forward better in a general discussion than in a printed statement.

CHAIRMAN MULFORD: Thank you, Inspector Held. Let me ask a question. Do you support Assembly Bill No. 132 as amended? It has been amended twice you will note. Do you think that it is in good form to be passed into law in its present form?

INSPECTOR HELD: No, I do not.

CHAIRMAN MULFORD: Could you then give us at another time, after consultation with your people, your specific recommendations as to amendments that would then place it in good form? Is that possible?

INSPECTOR HELD: Yes, sir, and I'd be most happy to do it.

CHAIRMAN MULFORD: I would request that of you and we would appreciate receiving that. Mr. Dahl, do you have a question?

ASSEMBLYMAN DAHL: No, I believe not, Mr. Chairman. I'm beginning to recall the hour or more discussion that we had on this in Sacramento, and it seems to me that the two people that are going to come up with the answers are the fire service on the one hand who are interested from the safety point of view and as opposed to the marketing groups be they Standard Oil or somebody that we never heard about who produce these products and offer them for sale to the public. It seems to me that the area of disagreement lies between those two people and I don't believe this committee can say that glass can be used for 16 ounces in one instance or that it can carry a flammable as the gentleman from Standard mentioned - carry a flammable of one intensity in one unit and another intensity in another. It seems to me that the obligation lies- and I think this committee should direct this fire service to sit down with the principal marketing people and between them come up with legislation. We admit the bill is necessary; we admit it is good; I don't think anybody quarrels with this, but I think the debate should be centered between the people who produce the merchandise and the people who may have to put out the fires that might one day occur as a result of improper containers. Glass is very fragile, but as has been suggested, there are probably many other kinds of materials on the market today that would be satisfactory as containers which would relieve us of a great deal of the problem. I would urge you chaps to sit down with a group of the manufacturers and I'm sure that they would be more than happy to get together because they don't want legislation shoved at them that isn't any good any more than you do. But

this threat is there if we don't do something. I think that's where the thing should stem from.

CHAIRMAN MULFORD: Thank you. Mr. Wolfrum, any questions?

ASSEMBLYMAN WOLFRUM: Is this definition on flammable liquid beginning on line 18 of this bill, is this the standard definition for flammable liquid?

INSPECTOR HELD: 200 degrees?

ASSEMBLYMAN WOLFRUM: 200 degrees fahrenheit, vapor pressure of 40 p.s.i. Is that a standard definition - is it recognized?

INSPECTOR HELD: No, it is not. 200 as a standard is not nationally recognized. It is a temperature here that was placed in the bill by Mr. Lowery on the recommendation as I understand it of Mr. Regan from the County Fire Marshal of Santa Clara County. My information is that he received this figure from him. There are several standards, not all in agreement, on a national basis. The Manufacturing Chemists Association says that Class I material has a certain flash point, I.C.C. has another, the local ordinances and in our case here in the city we have four break down points which we classify various flammables and it is my personal opinion that something of this nature should be written into this bill wherein it can be reasonable expected to conform with all of the areas of the state. Now your climatic conditions have a very definite bearing on this and we have an expert here in our audience with us today who represents the Southern California Fire Inspectors Association - Captain Bob Ballentine from the county and I think it might be well for you to allow him to give his opinion on this matter.

ASSEMBLYMAN WOLFRUM: We have a definition in the Vehicle Code of this flammable liquid don't we?

INSPECTOR HELD: That's right. This parallels I.C.C. However, there are various breaking points as to the degree of hazard based on the flash point of the material.

ASSEMBLYMAN WOLFRUM: Well, basically the bill seeks to get at the storing of flammable liquids and we're in apparently some area disagreement as to the standard we want to set on the definition of a flammable liquid. But what we want to prevent is the storing of gasoline in glass containers, isn't it?

INSPECTOR HELD: This is a typical thing, yes.

ASSEMBLYMAN WOLFRUM: I mean the bill got pretty wild I think after two amendments. It evaded its original purpose.

INSPECTOR HELD: That's right, it did.

ASSEMBLYMAN WOLFRUM: Thank you.

CHAIRMAN MULFORD: Inspector, if this committee is going to do its job I think that the observation made by Mr. Dahl is well taken. I'm going to read into the record as soon as we complete your testimony a comment from the Fire Chiefs Committee. I just want to add for emphasis that it appears to us in the Legislature that we're dealing with a highly technical subject here involving the absolute need for your advice and counsel of those of you who are the professional fire and safety people. We need your assistance if we're going to come up with a piece of legislation that will protect the people of California and at the same time not be restrictive in the market place. I think this requires a good example of cooperation between the marketing people and the fire service and I will, Mr. Dahl,

following through your suggestion, make sure that by letter in a recommendation to Mr. Rumford in his capacity as Chairman of this Committee that he send letters to these people requesting that this action be taken so that we can be sure of official recognition of the action that we feel we must have if we're going to arrive at an equitable and workable solution.

Do you have any other comments, inspector?

INSPECTOR HELD: Yes, I do, Mr. Mulford. Since our hearing in Sacramento, our department has gone to some degree in testing out various containers which could or could not contain flammable materials. Basically, this has been in the plastic field, and we have come up with several conclusions which changed our thinking considerably on this subject. We have tested materials of a given wall thickness and various other items whether it be a screw cap or a snap on cap, etc., and have come up with some rather startling facts inasmuch as in this particular type of plastic which we did test extensively not only in actual residential dwelling fires of which we had an opportunity to use for our training period where freeways or airports are going in, but under actual fire conditions, and we have found that in many instances the plastic containers are much more satisfactory than the metal. We have made a sincere effort to look into this field and find if our thinking was correct and if it was it is our intention to advise this committee of our thinking. In many instances we found that the rupture pressure of the metal container vs. the plastic container was almost 60 percent greater or more satisfactory in plastic than it was in metal so we're making a sincere effort to come up with

something which we believe will be helpful. Now, in my statement I mentioned that the I.C.C. was the only other agency which required labeling. This in effect is not exact because we have our general industrial safety orders and other people who require labeling for poisons, insecticides and things of this nature. However, there are many deficiencies in that particular part of the law as well as there is in the I.C.C. regulations which I think most of you gentlemen are acquainted with. They are sadly lacking in many areas. I might show you an example of this. Here's a container which is sold nationally. It has a caution label on it and I would submit it to you for your observation to give you an idea of the problem that we're faced with and that which the public is faced with although many times they are not aware of it. Now if you'll please find the caution label, the size of the print, the thing bringing it to your attention. These are some of the things we are much opposed to.

CHAIRMAN MULFORD: Let the record show that a commercial hair spray was displayed before the committee with a match causing a flame to result from the spray. Have you brought this to the attention of anybody?

INSPECTOR HELD: Oh, yes. It has been brought to the attention of manufacturers. However, it does comply with the present law. And we don't believe that it is adequate.

CHAIRMAN MULFORD: You are talking about the present state law. We are confined and necessarily so to consideration of state laws. So these other areas of mislabeling or absence of labeling, would you give us a list of those too for the record of those areas where you think the law should be corrected? It's

not impractical to consider any areas that are discovered in the legislative hearing that require corrective treatment and consideration so that I ask of you now that you provide this list to us together with your recommendations in areas where the labeling law needs strengthening regardless of what area you find it in.

INSPECTOR HELD: All right.

CHAIRMAN MULFORD: Do you have any other comments? Any questions? Mr. Dahl.

ASSEMBLYMAN DAHL: In this commodity which is before us, what size print on that can would be proper in your view, Inspector Held?

INSPECTOR HELD: At least as large as the largest print on the container, and preferably in a different color.

ASSEMBLYMAN DAHL: I found it, of course, on the back in about a four-point type in black which is about as small as the human eye can read without a magnifying glass. You think it should be someplace on the face of it and in an opposing color?

INSPECTOR HELD: Not on the face necessarily, but at least in as large a type as other printing on the container and preferably in a contrasting color.

ASSEMBLYMAN DAHL: Thank you.

CHAIRMAN MULFORD: Thank you very much, Inspector. State Fire Marshal, Glenn Vance.

CHIEF VANCE: I am Glenn Vance, State Fire Marshal. Mr. Chairman and members of the Committee, actually I would restrict my comments regarding Assembly Bill 132 primarily to

the types of materials. On Monday we convened a meeting of the State Fire Advisory Board to the State Fire Marshal and I discussed this at some length with them and they certainly concur with the principle that it is a needed and an excellent piece of legislation. I would recommend actually that after the word metal on line 5 possibly the words or unbreakable plastic be inserted in the interest of being actually less exclusive and even permitting polyethylene or similar type materials to be used as containers - -

CHAIRMAN MULFORD: Excuse me, Mr. Vance, are you directing your comments to the bill in its original form or as finally amended?

CHIEF VANCE: It was the second amended version. Actually we do find that the fact that these polyethylene or similar material, similar plastic containers do have an advantage which I think maybe Mr. Held actually covered. It has been our experience - in just very casual and without actually having a specified type test - but in our laboratory we have dropped metal containers of flammable liquids and find that they too will rupture, and so on. Basically, as I recall, the intent of this legislation was probably in the interest of home fire safety and with that I would heartily concur that this would solve our problem. It was not actually projected to commercial establishments where they may be storing this. This has particular impact now with the uniform building code permitting in many areas water heaters in garages and also we have always permitted them in service porches. Now with the metal or plastic containers and dropping these we would have a source

of ignition, but we wouldn't have a shattering as we would with glass.

I've made another comment here on the final paragraph of Section 13117, line 19. We would recommend inserting the word after "200 degrees F" the words Cleveland Open Cup". Any reference to a flash point should include a specific test method because there are several different test methods which could provide you a different result , and this is a standard and acceptable test. We use this in the dry cleaning industry for example. The 200 degree flash seems reasonable. That's been projected from the Vehicle Code into the new Senate Bill 826 dealing with flammable liquid transportation for example in the state, the same figure, 200 degrees.

We've always thought that there was a grammatical error probably in Section 13118 when it said that it shall have on the container a label in legible type and if we insert the word bearing there it would correct that. The important change here is, of course, a very fine one and we heartily agree in substituting the words flammable liquid for solvent. The word solvent in 13118 has made a very difficult thing to enforce. In other words, gasoline isn't necessarily a solvent. Kerosene is not a solvent actually, as a matter of semantics, but it has given trouble a few times when it has been tested and I can think of one case by a Justice of the Peace. I've recorded some of this and I've made enough for the committee if I may leave them, Mr. Chairman.

CHAIRMAN MULFORD: All right. Will the Sergeant at Arms please distribute the prepared statement? Mr. Dahl.

ASSEMBLYMAN DAHL: I think some of your problems have been resolved in the third amended bill. I notice that they have deleted the word solvent in the second amended bill and if you look at the bill amended in the Assembly, May 5, and then there's a further amended bill in the Assembly, May 19, which I think eliminates a couple of your problems already.

CHIEF VANCE: They would and I was only agreeing that that was an excellent thing and that will make it a workable law as far as we're concerned.

CHAIRMAN MULFORD: Mr. Vance, in view of the testimony that you have heard this morning from Mr. Woods from the Standard Oil Company, do you believe that further clarification is necessary in Section 13117 or do you not concur in his comments?

CHIEF VANCE: Not necessarily. I believe it certainly should be pursued and investigated. We have actually eliminated the one thing that would make a difficult law and that is our beverages and foods and so on and the imcompatibility is in there by permitting or expanding the thing to permit plastic containers I think would make it a very workable piece of legislation.

CHAIRMAN MULFORD: I will ask you also to do some additional work on this language so that we have something. You've made suggested changes but I would like to have, after you have had a chance to study the transcript of this hearing as the State Fire Marshal, you give us some specific recommendations and amendments to make this a workable piece of legislation. What we're trying to do, I think you gather this by now, is to obtain all of the technical assistance

we can. We are laymen here and we need the assistance from the professional people as well as the recommendations from the marketing people as I have indicated earlier.

Let me ask you a question. You have seen an exhibition here a moment ago that was a little startling in itself. What is the Fire Marshal's Office doing about the fact that a number of items are not correctly labeled obviously because the law does not require it? What is the Fire Marshal's Office doing about bringing to the attention of the Legislature those areas that need corrective action?

CHIEF VANCE: Actually we haven't tried to introduce legislation there. It possibly has been done. I haven't seen the final version of the new labeling law, the incompatibility law, that is now being enforced by Public Health. I regret that I didn't bring a copy of it. We did offer testimony and our chemist did prepare sample wording. This was before Mr. Hanna's committee a few years ago, and as far as introducing legislation on our own, we haven't actually seen fit to do that. The thing was wound up finally with the enforcing people being over in Public Health and justifiably because it will cover poisons and other things than just flammable liquids.

CHAIRMAN MULFORD: Well, are you satisfied with the present law that it covers all areas that require labeling to provide the maximum protection for the people of the state?

CHIEF VANCE: No, I think it needs strengthening very definitely. There's no question about it.

CHAIRMAN MULFORD: Then I'll ask the question again - what are you doing about it as the State Fire Marshal?

CHIEF VANCE: If it isn't incorporated in the final law, and I don't have a copy of it now to know whether it is, under the State Department of Public Health, then we would very definitely introduce legislation.

CHAIRMAN MULFORD: Shouldn't you be consulting with the Department of Public Health right now to make sure it is going to work this way?

CHIEF VANCE: We're doing that, yes.

CHAIRMAN MULFORD: I would like to ask of you a written report after you have finished your consultation with them for this committee as to recommendations either telling the Public Health Committee that the labeling law is approved insofar as you're concerned and that there are no areas that require legislative attention, or pointing out to us with firm specific recommendations where we should move. Now I am frankly a little concerned having heard this testimony this morning that there are areas of the State law that require corrective treatment. I felt that previous legislation - I believe Mr. Hanna was the author on it - on labeling - that we had come a long way in solving some of these problems, but from the previous testimony by the inspector just a moment ago, it appears that we have not. I think you, as the Fire Marshal of the State, have a very basic responsibility to immediately get into this thing and let us know those areas and I would ask you informally to talk with the inspector today. I'm sure he is well known to you, and then give us the benefit of your thinking. If there are areas that need corrective action, certainly this committee wants to bring it to the attention of the Public Health Committee with

the request that legislation be initiated as soon as possible. And we would also like to know whether in your judgment it should perhaps be brought to the attention of the Governor to be placed on the special call. I'm a little concerned that a commercial item is on the market that could cause a fire when we don't know about it. Do you agree generally with my observation?

CHIEF VANCE: Very definitely I agree. I certainly do.

CHAIRMAN MULFORD: Then will you do something about it?

CHIEF VANCE: This has been investigated at great length. Whether there hasn't been enough push to be able to effect working legislation I'm not prepared to say. I'm not that familiar with the final law which again I say is under the State Department of Public Health. The same thing actually could be projected over to the plastic bag covers where with a lot of work we were able to get labeling on the "keep away from children" and so on. I very definitely agree that labeling is a very important thing.

CHAIRMAN MULFORD: I think that on that particular measure as soon as the committee learned of it that legislation was immediately introduced with an emergency label on it.

CHIEF VANCE: A very excellent piece of legislation.

CHAIRMAN MULFORD: I don't think there was too much work required on that.

CHIEF VANCE: No, there wasn't.

CHAIRMAN MULFORD: As soon as the Legislature found out about it, it moved. And I think you have a responsibility as the State Fire Marshal - and not meaning to criticize you, Mr. Vance -

I'm merely trying to emphasize what I consider to be the need for urgent attention by your office to this subject if it in fact exists. It's news to me that there is an area that requires corrective treatment. The inspector has aroused my curiosity. I thought we had treated this subject conclusively at the last session of the Legislature. If, in fact, we have not, then our responsibility is to move on it as you as the State Fire Marshal share that responsibility to help us move on it.

CHIEF VANCE: I heartily agree with that.

CHAIRMAN MULFORD: Mr. Wolfrum do you have any comments? Mr. Dahl? Thank you very much, sir.

CHIEF VANCE: Thank you.

CHAIRMAN MULFORD: Captain Ballentine of the Los Angeles County Fire Department.

CAPT. BALLENTINE: I am Captain Ballentine and I am representing as President the California Fire Chiefs Association, Fire Prevention Officers Section. We merely wanted to state that we support Mr. Lowery's bill, particularly as in the amended form and very definitely the 200 degree flash point which we would like to see put on this label. This is a standard fire department acceptance when we speak of the National Board of Fire Underwriters, National Fire Protection Association, and a recently adopted uniform fire code by the California Fire Chiefs. This we expect to be adopted by at least some 100 cities in the State of California. Basically, it is a code of the National Board of Fire Underwriters. In this code covering basically this same subject, I would like to read you a section

and in turn this would be our recommendation following for your committee.

"Containers, tanks, equipment and apparatus used or intended to be used for the storage, handling, use or sale of flammable liquids shall be of an approved type. Glass containers exceeding eight fluid ounces in capacity shall not be approved except where contamination is a factor. Samples of not to exceed one quart individual capacity may be taken in glass containers for commercial reference or testing."

Now as to the merits of the plastic vs. the metal, our code does not contain this. It just contains other than glass. I would strongly advise you to stay away from the terms gasoline, kerosene, and solvents. This is merely an accepted name of a particular structure of hydrocarbons. I could buy what is known as a solvent - I could call it something else. There's no law saying that I couldn't re-brand this to something else after I got it out. If you stick to your flash point and as Chief Vance said the "Cleveland Open Cup" for the 200 then it either falls in this or it doesn't fall into this category one way or the other. This is basically all that I have to offer, Mr. Mulford.

CHAIRMAN MULFORD: Captain, will you see that the committee receives a copy, an extract or photostat of that which you have read so that we may have it and document it for us so that we may identify it in the record.

CAPT. BALLENTINE: I will.

CHAIRMAN MULFORD: Mr. Dahl any questions? Mr. Wolfrum?

ASSEMBLYMAN WOLFRUM: No, I don't think so.

CHAIRMAN MULFORD: Thank you very much Captain.

Mr. R. A. Diepenbrock, Manufacturing Department of Standard Oil.

MR. DIEPENBROCK: Mr. Mulford, I really haven't much to add to this. I think the approach of two interested parties getting together certainly is one that could bear fruit. I was glad to hear the last gentleman mention as far as manufacturing is concerned. Of course, we would like some provision to be able to still take samples in glass bottles of almost any size because within our own environs we feel we are very familiar with the product and would not like to be restricted to the word fill which could be interpreted to say that even a person out in the refinery would be prohibited from filling a glass bottle.

CHAIRMAN MULFORD: Well do you agree that the approach that the committee is taking this morning - Mr. Dahl's comments, Mr. Wolfrum's and mine, that as lay people we here need the advice and counsel of those of you who are technically qualified to assist us so I would ask of you also to join forces with Mr. Woods and under the banner of the Standard Oil Company to contact these outstanding fire authorities who are here and have been of tremendous help to this committee through the years and then collectively come to us with something that is useful and workable. Can this be done from your position?

MR. DIEPENBROCK: I'm sure we'll fully get behind this thing. Just to clarify this thing of why there are two of us here from the company, Mr. Woods is from our Marketing Organization and I'm from the Manufacturing Organization which represents our refineries and petro-chemical operations and any manufacturing

operations. We will certainly be glad to cooperate on this.

CHAIRMAN MULFORD: Many times in a legislative hearing these problems will come up where it appears to us the solution is that the citizen groups can get together and then give us a unified recommendation that will also save us some time and save the taxpayers some money without having to continue other hearings. We can do all this without the expense of public hearings and then when we're ready to get down to consideration of a basic law we're ready to move and we can move expeditiously.

MR. DIEPENBROCK: We appreciate your consulting us on this and we'll be glad to cooperate.

CHAIRMAN MULFORD: We appreciate your being here, sir. Thank you very much. Mr. Charles E. Smith, Society of the Plastics Industry.

MR. SMITH: Charles E. Smith, Fire Consultant for the Society of Plastics Industry. Mr. Chairman, the subject has been so well covered that we would like to add only this. The Society of Plastics Industry obviously would like the bill so worded that certain of their products could be sold. We believe that this wording should be very carefully studied. We have found in the past sometimes that it was more advantageous to pin point those products that could not be used rather than those that could be used. The Society bade me to say only this to you gentlemen that we would be delighted to sit down with the fire people or whoever you would designate to work out a specification or to labor with the technical parts of this bill as you see fit. Thank you.

CHAIRMAN MULFORD: Before leaving, sir, the Chair is

going to ask the Fire Marshal to coordinate this citizens group meeting. It appears to us here that there's a tremendous desire to cooperate to join forces with the legislative committee so in order to have a clearing point, Inspector, and Captain and the Standard Oil gentlemen and Plastics Industry will you all contact the Fire Marshal. We are doing this on an informal basis, Mr. Vance, but I think for the reasons which we have attempted to clearly set forth we can then come up with a solution and a piece of legislation to recommend. It appears that we are rapidly approaching a point of cooperation here that can resolve this matter for the benefit of all the people of the state. Thank you very much.

MR. SMITH: We'd be very happy to do that, Mr. Mulford.

CHAIRMAN MULFORD: All right, thank you. Dr. James L. Keller, Union Oil Company Research Department.

DR. KELLER: I'd like to add endorsement of the original intent of the act as the bill has been said before to prevent distribution of flammable liquids in glass containers and also to endorse completely the comments made by the gentlemen from Standard Oil. I would like to underscore the need to distinguish between portable containers and tanks intended to contain such fuels as gasoline, kerosene, diesel fuels. As the bill is now worded in the third amendment, as I read it, it would be illegal for a gasoline station to put gasoline into the average automobile, diesel fuel into the average diesel truck, or heating oil into the tank at the home of a house equipped with an oil burning furnace because all these tanks need to be vented in order for the pump to draw fuel from the tank. I'm sure that

this is clearly not the intent of the proposed bill.

ASSEMBLYMAN DAHL: Would you explain that in a little bit more detail?

DR. KELLER: It is necessary before any tank containing fuel to be vented to the atmosphere in order for the pump to draw fuel from the tank.

ASSEMBLYMAN DAHL: What about an underground tank?

DR. KELLER: Whether it's underground, whether it's a gasoline tank on your automobile or a diesel fuel tank on a truck, if the pump draws fuel out there must be some place for air to get in or else the equipment will vapor lock and not operate.

ASSEMBLYMAN DAHL: Thank you.

ASSEMBLYMAN WOLFRUM: Are you talking about lines 6 and 7 of the bill that says fitted with a tight fitting replaceable top, cap or other device so made that the container will be air tight when closed?

DR. KELLER: Correct. If it's air tight then the automobile won't run. And secondly, there has been considerable discussion this morning of containers which are not adequately labeled with warning labels for flammable hazards. I think we should all be aware and certainly are, that the federal hazardous substances labeling act and the regulations that have been issued subsequently under that act cover this matter thoroughly. They required not only explicit labeling on many types of hazards including the flammable but spell out the size of the type which must be adequately large. That act goes into effect on February 1st of next year. I think it covers all of the hazards

that have been discussed here and many others.

CHAIRMAN MULFORD: Doctor, are you saying then at that point that when that goes into effect - when the federal statute becomes law in February of 1962 that that will have full force and effect over all of the areas presently uncovered as we have discussed this morning?

DR. KELLER: So long as the articles are moved in Interstate Commerce, yes.

CHAIRMAN MULFORD: That's what I thought - Interstate Commerce, but, however, insofar as those items, subjects that are restricted only to California there would be a loophole, would there not?

DR. KELLER: No, I believe there would not.

CHAIRMAN MULFORD: Would you clarify it, because I frankly don't understand it.

DR. KELLER: For an act passed in California known as the California Hazardous Substances Labeling Act passed earlier this year, I do not have the act number, but it was Assembly Bill No. 266.

CHAIRMAN MULFORD: Mr. Hanna's bill.

DR. KELLER: Is a parallel act. The wording is almost verbatim the same as the federal act except that it applies to articles manufactured, distributed or sold in the State of California rather than to Interstate Commerce.

CHAIRMAN MULFORD: Then, in your opinion, it would appear that when these laws come into effect that the problems will be solved.

DR. KELLER: With one exception. The labeling for

flammability as presently spelled out in the Federal Act and in the California Act apply the label, I believe it's "extremely flammable" to substances with flash point below 20 degrees and the label "flammable" to substances with flash point from 20 to 80 degrees fahrenheit, and do not require special labeling for substances flashing above 80. The American Petroleum Institute is presently and has been for some time studying the problem of labeling to conform with the various laws in existence and in good faith to warn people that there is some degree of flammability hazard for substances flashing above 80 degrees. It is recommending the term "combustible" for materials which flash above 80 to be consistent with the present federal law and the California law. I would endorse that term to indicate that there is some hazard, but a lesser degree of hazard than those materials flashing below 80 degrees which is approximately room temperature.

CHAIRMAN MULFORD: So to that degree in the word combustible you feel that the law can be strengthened in the state.

DR. KELLER: Yes.

CHAIRMAN MULFORD: Directing your attention to this little exhibit that was held here a few moments ago where commercial hair spray hit a match and became a large flame, do you feel that when the federal law and state law, when these bills become law and they are in full force and effect, do you feel then that sufficient control will be exercised over this situation?

DR. KELLER: I have not examined the container closely as to the hazard, but I do know that the regulations

issued by the Food and Drug Administration under the Federal Act provide test methods specifically to test the degree of hazard presented by pressurized containers. Pressurized containers are specifically covered in those regulations.

CHAIRMAN MULFORD: Mr. Dahl.

ASSEMBLYMAN DAHL: Is the doctor referring to the new law that is to become effective?

DR. KELLER: Correct. The law that becomes effective February 1st.

ASSEMBLYMAN DAHL: But not necessarily covered now. This commodity may in the interpretation of the new law have to have a statement on there that gives it a combustible wording or flammable or something of this sort, is this right?

DR. KELLER: Correct. There are tests described in the Federal regulations to determine the degree of hazard. You spray it for so many seconds and ignite it from various distances and determine how long the flame lasts.

ASSEMBLYMAN DAHL: Thank you.

DR. KELLER: As I said, the regulations have been issued under the Federal Act. The California Act is on the books and is to go into effect on the 1st of January. However, to the best of my knowledge, no regulations have yet been issued in California for the existing act.

CHAIRMAN MULFORD: No regulations have yet been issued.

DR. KELLER: That's my understanding.

CHAIRMAN MULFORD: Mr. Wolfrum, any questions? Doctor I want to say that you have been very, very helpful to us. You have filled in a lot of the answers here that seemed to be

question marks a few moments ago. We would also like to make this request that in the future should you see occasion for corrective legislation in the interest of protecting the people of the state in the project on which you are constantly working for Union Oil, we would welcome communication at any time. You have been very helpful and we appreciate it. Thank you for being here.

DR. KELLER: We would be glad to cooperate.

CHAIRMAN MULFORD: This completes the testimony for all of those who have indicated the desire to address the committee on AB 132. Does anyone in the audience care to speak now on the bill? We'll turn now to AB 3024 by Assemblyman Meyers. I want to read into the record on AB 132 a letter received from the City of Berkeley, Office of the Fire Chief, Chester W. Moller, addressed to Assemblyman Don Mulford, Chairman, Subcommittee on Fire Protection.

"I wish to commend you and the members of the Subcommittee on Fire Protection for your untiring efforts in behalf of adequate fire safety in California.

"The two items you mention on your agenda for the meeting of December 1, AB 3024-1961 and AB 132-1961 are fully supported by Fire Service. The presumption clause included in AB 3024-1961 is sorely needed to strengthen the present law as contained in the Health and Safety Code, Sec. #13001. AB 132-1961 would, by limiting the sale of flammable liquids in amounts greater than 16 ounces to unbreakable and nonflammable containers, solve to a large degree the problem of flammable liquids being placed indiscriminately in breakable and flammable containers.

"I presented both of these items to the State Fire Advisory Board at their meeting of November 28, 1961, and received their concurrence on the content of both AB 3024 and AB 132."

Very truly yours,

(Signed) Chester W. Moller

AB 3024 was introduced by Mr. Meyers April 21, 1961.

We have a wire from Assemblyman Meyers as follows:

"You have on your interim committee agenda this morning an AB 3024 which was authored by me and provides presumption that registered occupant or renter of a room in a hotel, motel, etc., in whose room fire started by cigarette, cigar, etc., is in violation of present law, making such an offense a misdemeanor. I will not be able to be present, however, Mr. Ray Cerles who is President of the San Francisco Hotel Owners Association and for whom I introduced this legislation will be present to make a presentation in support of AB 3024. I have been advised that there will be other interested persons who will appear in behalf of this legislation. While this legislation may not be the full answer to a serious and pressing problem it is hoped that a solution may be reached by such a meeting as you are having today on this bill. Courtesies extended to persons appearing on behalf of this legislation will be very much appreciated. Kindly make this telegram part of the record. Thanks."

Charles W. Meyers
State Assemblyman

All right, AB 3024. We will now call the Los Angeles Fire Department, Chief John Degenkolb.

CHIEF DEGENKOLB: I am John Degenkolb, Chief of the Los Angeles City Fire Department. I have submitted to you previously a prepared statement much of which I would like to read to you. We have some additional information which I have just distributed to you which we would like to have as part of the record inasmuch as the original announcement of this meeting said that it was to consider other safety measures in Assembly Bill 3024 they are included in this prepared statement that was given to you earlier.

For the period extending from July 1, 1960, to October 31, 1961, fires whose origin can be attributed to smoking

were reported in habitational occupancies in the City of Los Angeles, and investigated as follows:

	<u>7-1-60 to 6-30-61</u>	<u>7-1-61 to 10-31-61</u>	<u>TOTAL</u>
Apartment House	565	193	758
Boarding Home - Aged	3	0	3
Dormitories, Fraternity and Sorority Houses	8	2	10
Dwellings-Single Family	621	191	812
Dwellings-Multiple	330	103	433
Hospitals	24	8	32
Hotels	286	77	363
House Trailer	12	0	12
Motels	27	7	34
Rooming House	25	6	31
Sanitarium	7	0	7
 Totals:	 1,908	 587	 2,495

Considering only the 1908 "smoker" fires during the fiscal year July 1, 1960 to June 30, 1961 in the City of Los Angeles alone, 34 of these resulted in a total of 38 fatalities. By occupancy, these fatalities were distributed as follows:

Dwellings	21
Apartments	13
Motels	1
Trailers	1
Sanitariums	2
	38 Fatalities

Thus far this year - from July 1 to November 20 - there have been 5 "smoker" fires resulting in 5 deaths. Two

have been in apartment houses and three in dwellings.

We believe that the above "statistics" substantiate that something needs to be done to improve the situation. Obviously, the existing laws provide no deterrent to careless smoking or the careless discard of lighted or burning materials. Unfortunately, the victims of the careless acts are frequently those innocent of wrong doing. For example, when the St. George Hotel in Los Angeles burned, for the second time, in 1952, there were 6 people killed beside the one responsible for the fire.

Possibly a more stringent law which would impose penalties for carelessness would curtail these losses.

As you are well aware, under existing laws, a misdemeanor must be committed in the presence of the one filing the complaint. Since, as firemen, we arrive "too late" to see a cigarette discarded and the actual fire originate, we have not been able to prosecute violators even though we are morally certain as to the identity of the responsible person.

More to the point, however, is the problem of getting fires reported to the Fire Department. Within the past several days we had a fatality in a hotel resulting from a fire which was not even reported to the Fire Department. Certainly, we are proceeding with an application for a criminal complaint, but we are very skeptical as to what measure of success we will have. By success, we mean, "Will the punishment fit the crime?" Is a \$25 fine - if we are successful in getting a conviction - sufficient to serve as a deterrent to other operators of hotels, apartment houses, etc.?

Without a doubt, one of the major hazards to the occupants of apartments and hotels throughout the State of California, and definitely within the City of Los Angeles, is the matter of deficient exits. By the term "exit deficiency" we do not simply mean the lack of an adequately protected exit facility as demonstrated by unenclosed or open stairways, but even an insufficient number of exits. We have had a major hotel in the downtown area of Los Angeles which is eleven stories in height but which has only one exit. Some of the fire escapes - extremely poor exits at best - terminate at the 3rd floor. In the upper stories we have 4 stairways, but from the 3rd floor down we have but one usable stair. Should the one exit of this hotel be blocked by fire or for any other reason, think of the tragedy which could occur.

Open stairways which act as flues or ducts for the spread of killing heat and smoke are well established killers. Think back to the Winecoff Hotel in Atlanta, Georgia; the La Salle Hotel in Chicago; the Canfield Hotel in Dubuque, Iowa - all of which occurred within a period of 6 months; the St. George Hotel here in Los Angeles which killed 3 persons in 1915, 7 in 1952; the Thomas Hotel in San Francisco, in which 21 persons were killed in January of this year.

Possibly this is a matter for local authorities, but so far, with the exception of San Diego, Long Beach, San Francisco, and possibly a couple of others, the local authorities have not been able to put over their point. Apparently we must wait until we have another major life loss.

The installation of fire detector or fire alarm systems

is not an adequate answer. We have learned of the extreme rapidity with which smoke and heat, particularly smoke, can spread through a building, nullifying the use of exits. Even the most sensitive alarm device, one which could give instantaneous response, would not protect in too many cases. All that an alarm system or detector system will do is advise the occupants that there is danger. True, it could be so arranged to set certain protective devices into operation if such devices, such as fire doors at the entry to stair shafts, were provided. But such a system does not in itself do anything to control or lessen the hazard of fire. We must either isolate the fire or limit its possibility of spread by building design, or we must attack the fire itself by the use of automatic devices such as sprinkler systems.

We must "play for time" to give the Fire Department a chance to effect rescue and control.

Now with regard to this matter of enclosure of vertical stair shafts, etc., this ditto material which I have just distributed to you is a reprint of an article which has appeared in the October, 1961 Quarterly of the National Fire Protection Association. It is an article entitled "Retroactive Application of Fire Laws" and was written by Honorable John M. Wise, Judge of the Third Judicial Circuit Court of Michigan. In this article it is his contention and he backs it up with Supreme Court decisions from Michigan, Washington, I believe Illinois, that our building laws as they are presently written, are retroactive. He particularly refers to the Thomas Hotel fire in San Francisco in January of this year

and he says that in his opinion this was allowed to happen because of a lack of enforcement. We have labored under the delusion that we have to get retroactive legislation before we can do anything about this situation. The Judge contends otherwise. I would like to request of the committee that this article be submitted to the Attorney General of the State and ask for a determination as to whether our existing building codes where these corrective features are required - whether or not they are retroactive without specific retroactive legislation being enacted.

CHAIRMAN MULFORD: Chief Degenkolb, let me say at this point that that will be done. The secretary is making a note of it and we will forward that request to the Attorney General. We appreciate your asking us about it.

CHIEF DEGENKOLB: Specifically on Assembly Bill 3024, the one question that I would raise, in line 7, it states, "any person", and I am wondering if this would make for a little confusion when two persons are registered to the same room. Which one is responsible? Accompanying me to the hearing this morning is Inspector Norman Jackson who is an attorney and who represents the Los Angeles Fire Department in our dealings with the Los Angeles City Attorney or the District Attorney. He is most familiar with the problems we have in prosecution or attempting to gain convictions or in the line of enforcement and if there are any questions specifically along that line he is available to try to answer them for you.

CHAIRMAN MULFORD: Is that the end of your testimony?

CHIEF DEGENKOLB: Yes it is.

CHAIRMAN MULFORD: Chief Degenkolb, before we ask for others, I have a couple of questions. Has a law been passed in Pasadena that requires the reporting of fires in every instance?

CHIEF DEGENKOLB: I think you're referring to the case a few years ago when Pasadena prosecuted a lady who failed to report a fire and a lot of ridicule was given the Pasadena Fire Department for what they had done. The lady had extinguished the fire herself and failed to report it. Now this is a state law. This is applicable all through the state. It is not a local ordinance with the City of Pasadena. The State Health and Safety Code makes it a misdemeanor for a hotel or apartment house to fail to notify the fire department in case of fire. And it is on this basis that we are prosecuting for failing to notify us, the hotel operator in which we had a death ten days ago.

CHAIRMAN MULFORD: In other words, we're getting into the area of lack of enforcement. In your opinion that law is strong enough taking your statement that it is existing law. It's a matter then of public opinion and lack of enforcement. Is that true?

CHIEF DEGENKOLB: Yes. We have tried on different times to prosecute for failure to report a fire to the fire department. But since these are misdemeanors, the part of fixing the responsibility for failure to have notified the fire department has been very difficult and as in the case of Pasadena, the Fire Department was ridiculed in the newspapers for having arrested the woman because she made the statement,

"The next time I won't put out the fire, I'll just call the fire department. Will this make you happier?" So we have a law that is extremely difficult for enforcement. It is the same as this with smoking. The American people have a concept that when someone has a fire everyone feels sorry for that person that had the fire. The European concept is - and I'm not advocating this - is entirely different. You have a fire in Europe and you pay for all costs - this is my understanding - you pay for the fire service, you pay for the damage to your neighbor's property and everything. We don't do that here. Everybody feels sorry and if we should prosecute someone for having had a fire by carelessly discarding a cigarette in a hotel room we get nowhere as far as prosecution is concerned.

CHAIRMAN MULFORD: In the Thomas Hotel fire which I'm sure you recall, I happened to be taken through that hotel while they were removing the bodies and they showed me the area where the fire had started and it did start, from the conclusions of the fire inspectors and the arson people, in an apartment on the ground floor where there had been a drinking bout and from some neglected cigarettes. The man, allegedly under the influence of liquor has since died from acute alcoholism, escaped with his life. The thought occurs to me in discussing this with other legislators that this bill is not the approach to it, that this won't solve anything. Now I'm not saying yes or no. I'm asking your reaction to that conclusion.

CHIEF DEGENKOLB: The City of San Diego has prosecuted quite a few people for causing fires by careless discarding of

cigarettes. We made an investigation with them and Inspector Jackson was down about a year ago to see how they had carried it out to a successful conclusion and it is San Diego's contention that every since they instigated this more militant enforcement that they have reduced the total number of fires. Now they have been doing this for several years. It started under Chief Courser and we thought that we would try to use this same manner of enforcement here in Los Angeles and for this reason sent men down to San Diego to discuss the matter with them and our information more or less came out that the principal ones who are being prosecuted there were drunks and military personnel neither of which could particularly fight back so they had an inordinately high list of convictions. In any event, San Diego does contend that with the more militant enforcement the number of smoker fires in hotels and apartment houses has been seriously curtailed. Now whether they have actually curtailed or whether they have been concealed by not reporting is a moot question, but certainly this proposed bill AB 3024 fixes the responsibility in a manner similar to that of parking your car illegally where the owner of the car as I understand it gets the ticket whether he parked it there or not. This would be inclined to do somewhat of the same thing. Is that correct? The registered occupant of the room is presumed to be the one responsible.

CHAIRMAN MULFORD: Is a correct conclusion of your position then if I make this observation, that this bill in its present form if approved of course it will be another bill - but if approved by the Legislature would have a result in your considered expert opinion of saving lives in California?

CHIEF DEGENKOLB: It would materially help. The one portion in there about the "any person" when more than one is registered to a room would have to be clarified, but I think that if we would be able to prosecute and that the publicity got out to the effect that people were going to be prosecuted and that we actually did do so, I don't see how it could help but have a beneficial effect on reducing the deaths or fires caused by careless smoking.

CHAIRMAN MULFORD: Mr. Dahl any questions? Mr. Wolfrum?

ASSEMBLYMAN WOLFRUM: I think you'll have a lot of difficulty with this bill on the establishment of a rebuttable presumption in this area of criminal law. As you point out there's only one so far that deals with the subject of presumption being established of this type and that's in a parking situation. But here you have a criminal offense where you're establishing guilt in a sense by the establishment of a presumption which switches the burden of proof over to the individual to prove that he was innocent.

CHIEF DEGENKOLB: I agree.

ASSEMBLYMAN WOLFRUM: You're saying he's guilty in effect and he has to go into court to prove that he's innocent. And you're going to get an awful lot of people that are going to be on your neck on this kind of legislation.

CHIEF DEGENKOLB: But at the present time our chances of getting convictions just don't exist.

ASSEMBLYMAN WOLFRUM: In effect, anybody that goes in on this kind of legislation or this kind of a law would go into court and say that he didn't do it and the fact that that's the only defense he has to establish then you have to turn around and prove

that he actually did it anyhow. With a parking situation most people would just accept it and pay the one or two or ten dollars whatever it happens to be and forget about it rather than take the time to go into court. But here you have a situation where an individual in effect all he has to do is go into court and say he didn't do it and you're stuck to prove it.

CHIEF DEGENKOLB: The proof of the fact that the fire was caused by smoking the way San Diego handled it, was to eliminate all other causes that could have caused the fire and establish that the cause of the fire was from smoking and then this would leave it that the registered occupant of the room is the one that is responsible. Certainly I can foresee difficulties in it, but at the present time even after we have determined that the fire was caused by smoking our chances of getting any conviction or at least to have any salutary effect upon the people to get them to stop smoking it just doesn't exist. If our convictions follow in the line of what we've been getting so far in fire violations, they will probably be getting off with five or ten dollar fines just like parking tickets. Maybe we should feel fortunate if we get a five dollar fine because frequently now we're not getting fines or even suspended sentences for fire code violations.

ASSEMBLYMAN WOLFRUM: Well, I think this goes a little deeper though, Chief, that you establish also negligence here in a civil action as a result of a criminal conviction so I mean you're going a little bit deeper here than you are in a parking situation for example. I mean you get into a real Constitutional question here as to whether or not you can in effect

CHIEF DEGENKOLB: Well are you saying, Mr. Wolfrum, even if the bill did pass it might be held to be unconstitutional anyway?

ASSEMBLYMAN WOLFRUM: I think you have a pretty good argument here.

CHIEF DEGENKOLB: It's worth a try.

ASSEMBLYMAN WOLFRUM: I think you're establishing almost a new field in criminal law in the situation here on it and I think you are going to have extreme difficulty in ever getting one like this through the Legislature. You're going to find an awful lot of opposition. There seems to be a majority of attorneys serving in the Legislature these days.

CHAIRMAN MULFORD: Mr. Dahl.

ASSEMBLYMAN DAHL: Well, I was just going to raise the point that the Chairman can have an opinion from Counsel asking how constitutional this law is.

CHAIRMAN MULFORD: That will be done and a note has been made of it. Do you have anything else, Chief, at this time?

CHIEF DEGENKOLB: No, sir.

CHAIRMAN MULFORD: It might be well to give some thought to the observations of Mr. Wolfrum. He's pretty practical in the pursuit of legislation and his observation here might be well taken. This too, Chief, was the argument that I was receiving from the legislators with whom I discussed this, that in its present form will have pretty rough going. This was the opinion when it was heard in committee. Maybe there's another approach to it. We're certainly not concluding anything at this time, but I think there are some storm signals flying surrounding its success if re-introduced in its present form.

CHIEF DEGENKOLB: As the matters now stand, we do have an article, the existing 13001, which to all practical intent and purposes might as well not be in the books. The one about reporting fires, under the way it is written, the difficulty of enforcement also might as well not be in the books, and when they do get enforcement, when you do succeed in getting a criminal complaint or possibly a conviction, the penalties are so light as to be no deterrent for future correction.

CHAIRMAN MULFORD: Chief, while you are here I'm going to digress just for a moment, but we're still under the general area of this fire protection. The State Department of Social Welfare on February 3rd of this year issued a study of hotels serving aged persons and on page 11 thereof, paragraph 3, there is a paragraph devoted to fire protection systems. Have you received this report or have you seen it?

CHIEF DEGENKOLB: No, sir, I have not.

CHAIRMAN MULFORD: Would you send one to Chief Degenkolb, please. Let me read it to you. It will only take a moment. The report was made in Los Angeles. It's in your hometown from your local situation.

"The only positive feature offering any protection to guests is in those few retirement hotels having operative switchboards maintained throughout the night, but negatively (a) no hotel included in the study has a sprinkler system, a heat activated fire alarm system, a smoke detector or any device to identify the source of a fire; (b) most hotels, including most of those of frame construction, have open staircases; (c) several hotels have no functioning switchboard and none has a call bell system and (d) a few hotels have elevators whose shafts seem to make for fire hazards."

All of this appears to be familiar in language from our previous hearings. I wonder if you are aware of the report and we will send

a copy to you and if you have any comments you would care to make to us in writing pertaining to corrective action that might be recommended by the Public Health Committee, we would welcome it.

It would obviously be unfair to discuss it at this time your not having seen it, but I wanted to take advantage of your presence here to ask your attention to this when you receive it.

CHIEF DEGENKOLB: All right.

CHAIRMAN MULFORD: Any other questions gentlemen? Thank you very much, Chief.

CHAIRMAN MULFORD: From the Apartment House Owners Association, Mr. F.O. Wilson.

MR. WILSON: F.O. Wilson, President, California Apartment Owners Association. Mr. Chairman, members of the Committee, may I read from our letter of intent. The California Apartment Owners Association respectfully suggests to your committee that the legislative purpose of AB 3024 is highly commendable and we support it in principle. However, we would request that to give the bill the maximum beneficial effect it should be amended so as to apply to apartment houses, courts and other non-transient multiple dwelling structures, as well as hotels, motels, inns, etc. This would make for uniform application of the bill and would cover the entire field of occupancy of rental accommodations. I don't know whether this was the original intent or not but we certainly thank you for the opportunity of appearing before your committee.

CHAIRMAN MULFORD: Mr. Dahl any questions? Mr. Wolfrum? Thank you, very much. Mr. Raymond N. Cerles, I hope I'm pronouncing that correctly, San Francisco Hotel Association, President.

MR. CERLES: My name is Raymond Cerles. I am an owner-operator of a hotel and motel. I am representing the San Francisco Hotel Association of which I am President. Our counsel was unable to accompany me, but I am here to try to convince you gentlemen of the need for Assembly Bill 3024. The question of liability is of great concern to many industries in the event of fire. Terrific costs are incurred by local police and fire departments. Insurance costs both to the company and the insured are also incurred. The main concern, however, is the safety and welfare of the residents of California.

The ideal situation is not to have fires and I believe in one way this bill would help in making people more conscious of carelessness which is the cause of most fires in hotels, motels, inns, boarding houses and lodging houses. At the present time it is possible for a person moving from city to city to start a careless fire in a room and no record of the occupant is made. It is conceivable the same person could start ten fires in his life's span. I am sure that citations on misdemeanor charges would make this party very careful in future potential fire starts. The public would inevitably be aware of this misdemeanor violation.

At the present time it is a misdemeanor to smoke in bed but I venture to say that this does exist. It is only by example and enforcement that I feel people will learn to eliminate carelessness. The drunken driver is presumed to have caused an accident in the event his automobile is found in an accident and he is at the wheel. Conversely, it should be presumed that an occupant of a room when found with a fire should be held responsible. At

present it is impossible without invading the private sanctuary of the room to see a fire being started.

As need for this law I would like to mention a fire presumed started and admitted by a man causing the life loss of 21, yet the authorities were unable to convict the individual. The individual was released and soon after within a week's time was picked up on a drunk charge. I have yesterday's San Francisco paper with me in which two people died wherein a smoldering cigarette was found as evidence as the cause of fire. I sincerely believe if enough convictions had been previously made, this possible loss of property and lives might have been averted. That is the extent of my presentation.

CHAIRMAN MULFORD: Any questions gentlemen?

MR. CERLES: I might comment I was rather pleased to have the Chief sort of concur with many of these thoughts here about the prosecution and I feel that in some way this present bill might not be the solution, but it has merit that possibly a meeting of minds could in some way make people a little bit more responsible than they are at the present.

CHAIRMAN MULFORD: Mr. Cerles, before I let you go I would again bring to your attention the very practical observation made by Mr. Wolfrum just a short time ago. I would urge you to tell the committee and we will also discuss this with Assemblyman Meyers, that it appears in its present form if it were introduced in a new bill that it would have rough going. Perhaps there's another approach to this subject. I don't mean the intent of the law, I mean the language or the way that you're doing. Presumptive

rebuttal, etc., has been mentioned. Will you discuss that with a counsel and if you have some other thoughts on it let us know. I think we're all in agreement on the desire to put through some workable corrective legislation, but if we're introducing legislation that's going to fail initially we're wasting a lot of time so if you'll take another look at it, I think we might be in a stronger position.

MR. CERLES: Thank you very much.

CHAIRMAN MULFORD: Thank you.

ASSEMBLYMAN DAHL: Mr. Chairman.

CHAIRMAN MULFORD: Yes, Mr. Dahl.

ASSEMBLYMAN DAHL: Before the witness leaves, I wonder if you couldn't approach this from another angle that when you sign your name to the registration card you sign an agreement on the back of that if a fire starts in this room that you're responsible for it. When we sign this registration we agree that we're going to depart at two o'clock or whatever the house rules are and a few dozen other things so why don't we hang this one on there at the same time and try it for size.

MR. CERLES: With your correct name, I assume?

ASSEMBLYMAN WOLFRUM: Well, its illegal not to sign your correct name now isn't it?

ASSEMBLYMAN DAHL: You assume there are some illegal registrations, sir?

MR. CERLES: Thank you very much, sir. I think that has some merit, sir.

ASSEMBLYMAN WOLFRUM: Thank you. Could we ask Mr. Jackson

a question or two. Mr. Jackson is an attorney from the Fire Department.

CHAIRMAN MULFORD: Mr. Jackson, will you come forward, please? Identify yourself for the record, please.

INSPECTOR JACKSON: Norman L. Jackson, Sr. Inspector, Los Angeles Fire Department.

ASSEMBLYMAN WOLFRUM: Is there another way we could approach this thing other than the establishment of this presumption? Do you feel there is any method that could be worked out to accomplish the same purpose without the establishment of the presumption?

INSPECTOR JACKSON: Well, right at the moment, I'm not prepared to offer any alternative. I haven't given it that much consideration.

ASSEMBLYMAN WOLFRUM: Would you do some research for us on it and let us have a memorandum from you at your convenience? At the present time if a fire starts in a hotel room is there any method at all of prosecution of this individual? Is there any law in the books at the present time that would cover this kind of situation?

INSPECTOR JACKSON: Well, the law as it now stands, purports to prevent this type of conduct, however, it's a question of proof in each individual case. A misdemeanor, of course, necessarily must be witnessed by the complainant. That is, the act which comprises the misdemeanor.

ASSEMBLYMAN WOLFRUM: Couldn't it be on a complaint of information and belief? Signed complaint by an investigator with physical facts to substantiate the application for the complaint?

Or done through a hearing I mean without necessarily physical arrest. It seems to me there are other areas that it could be operated in.

INSPECTOR JACKSON: Under the proper or under a factual situation it would permit this, surely that could be done. Each one necessarily must be judged upon its own facts. Oftentimes a fire will start in a room a considerable time after the occupant has left. Under those circumstances we wouldn't be able to show whether perhaps a maid started the fire through her own negligence...

ASSEMBLYMAN WOLFRUM: Well, you would have to prove that no one else had access to the room and that there wasn't some other factor involved in it.

INSPECTOR JACKSON: There possibly is another approach and I shall be happy to research that and present whatever information I do develop.

ASSEMBLYMAN WOLFRUM: Now in these hotel fires where they have had multiple deaths has there been prosecutions for manslaughter in these cases that you know of? Are you aware of any?

INSPECTOR JACKSON: I'm not aware of any. I think probably in most cases the one responsible is also one of the fatalities. He takes care of the situation himself.

ASSEMBLYMAN WOLFRUM: Do you know of any instances where there have been prosecutions?

INSPECTOR JACKSON: I'm unaware of any prosecutions for manslaughter under these circumstances.

ASSEMBLYMAN WOLFRUM: Thank you very much.

CHAIRMAN MULFORD: Thank you Inspector. I'd like to ask Mr. Vance, the Fire Marshal, to come back please. The testimony that

we have received this morning Sec. 13001 of the California Health and Safety Code reads in part, "Every person is guilty of a misdemeanor who throws or places any lighted cigarette, cigar ashes or other flaming or glowing substance of any substance or thing which may cause a fire in any place where it may directly or indirectly start a fire....." From your professional knowledge would you say that this could be used?

CHIEF VANCE: Very definitely. And I would have asked to have been heard for the record in any event before the close of the session.

CHAIRMAN MULFORD: Well, are we not talking about an area of enforcement?

CHIEF VANCE: Very definitely. This seems very clear cut without any presumption of guilt and so on....

CHAIRMAN MULFORD: And without any new legislation.

CHIEF VANCE: Right.

CHAIRMAN MULFORD: I think Chief Degenkolb and you have given us a green light to pursue here further. In your opinion the State Code is applicable and is strong enough that under proper enforcement - that is the desire to enforce - that they could proceed then against those who are guilty of starting fires from cigarettes and so forth.

CHIEF VANCE: I would say that very definitely. The law is clear cut. You must first establish the fact that the man is guilty which is certainly our democratic system, and in the interest of that I would add this, that we have run exhaustive tests actually on cigarettes, the cigarette causing fires, all

sorts of fires. We've burned up actually thousands of packages of cigarettes and we had a very difficult time starting fires first. We do know that the billions used certainly are causing fires and causing lots of deaths, but a significant thing came out of these tests which could have a bearing here, was the fact that you could drop a cigarette possibly on a mattress or in the back corner of a closet, and I'm thinking with particular reference to a hotel or motel, and it could lay there for six or seven hours before you actually had a fire become visible and actually become a fire. Certainly you would have some smoke in the smoldering stages and so on and should have been observed. I visualize this as a possibility of clouding the possibility of maybe getting a conviction particularly in these itinerate places where a man moves out and another party moves in. The man might not even smoke, but yet he has a fire and it could possibly be traced back by the burn pattern and so on to a cigarette.

CHAIRMAN MULFORD: Then the bill that is under consideration here seems to contain to you faulty language if I interpret your remarks correctly.

CHIEF VANCE: That is the bill itself?

CHAIRMAN MULFORD: Yes.

CHIEF VANCE: Yes, I think it's almost an unconstitutional approach to the thing and certainly we should have an opinion on that before I think we should even proceed with it. As a matter of fact I can see very little wrong and I know there have been convictions secured under the Health and Safety Code.

CHAIRMAN MULFORD: Well, that's been very helpful.

Chief Degenkolb points out that under existing laws a misdemeanor must be committed in the presence of the one filing the complaint with the observation that this almost precludes a conviction. Now this, of course, turning the coin over, indicates a weakness in the 13001.

CHIEF VANCE: Well, it's based on our American concept obviously that a man is certainly innocent until he is proven guilty.

CHAIRMAN MULFORD: Well, it appears we have two viewpoints here. Certainly, I think we need a new approach to it. I would ask of you -- we're giving you a lot of work to do, Chief.

CHIEF VANCE: That's perfectly all right, that's part of our job.

CHAIRMAN MULFORD: I just want to conclude that I'd like to ask you, too, to take a good look at this measure in addition to the same request we made of Inspector Jackson to see if you can come up with another thought that might satisfy Mr. Wolfrum's observation on the subject.

CHIEF VANCE: I certainly will.

CHAIRMAN MULFORD: Fine.

CHIEF VANCE: May I make one observation, however. I appreciated Mr. Cerles testimony and certainly Chief Degenkolb's. Possibly we're digressing and certainly I am because we have as the State Fire Marshal, no basic responsibility in hotels or apartment houses as an occupancy. However, I do make this as a very friendly observation and I appreciate the fact that when people go into a hotel owner or a motel or apartment house owner's facility and do cause a fire that possibly they would like easier

recourse. I do only want to make one comment. I wish we could get this much enthusiasm in support of retroactive legislation, certainly in our hotels and motels.

CHAIRMAN MULFORD: I'm sure you are aware that in San Francisco that the Board of Supervisors approved retroactive legislation and there's quite a production going on.

CHIEF VANCE: Tremendously progressive step, I would say.

CHAIRMAN MULFORD: The Thomas Hotel fire proved to be the final straw and although there are substantial objections by major hotel owners, it will be very interesting to see the outcome of that legislation. And if it finally stays and is enforced, those major hotels will be forced to make some substantial, expensive, changes, but if it's going to save some lives, then perhaps it'll serve the purpose.

CHIEF VANCE: You know, Mr. Chairman, our regulations actually enacted in 1950 covering all schools, all institutional occupancies in the state and all public assemblies, have been retroactive since the day they were initiated and were accepted by the Administrative Procedure Division and enacted into law and they have been very successful.

CHAIRMAN MULFORD: Fine. Thank you very much.

CHIEF VANCE: Thank you.

CHAIRMAN MULFORD: Does anyone desire to speak on this bill? This will conclude the testimony on this bill. For the information of the committee and the staff, this afternoon we are going to tour the Bel Air fire area through the courtesy of Chief Goss. We're going to see a 45 minute film on this and receive ideas and suggestions on how this happened and what perhaps may be done on

the State level to help prevent fires that are comparable or less comparable. We want to express our appreciation to everyone who appeared here today, particularly the Los Angeles Fire Department which does so much to help the State in the corrective legislation. For the last several years there has been much good legislation passed into law under the Public Health Committee under Assemblyman Rumford, due in no small part to the Fire Department here in Los Angeles. We again express our appreciation for the outstanding work it has done particularly in the engineering and research work which is a help to everybody in the State of California.

Meeting is adjourned.